

JAN 18 2008

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FERDOUS AHMMED,

Defendant - Appellant.

No. 05-50965

D.C. No. CR-02-01184-R

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Manuel L. Real, District Judge, Presiding

Argued and Submitted December 4, 2007  
Pasadena, California

Before: BOWMAN,\*\* BRUNETTI, and BYBEE, Circuit Judges.

The facts of this case are known to the parties and need not be repeated here.

Ferdous Ahmmmed appeals his sentence, imposed following his conviction for three

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The Honorable Pasco M. Bowman, United States Circuit Judge for the Eighth Circuit, sitting by designation.

counts of witness retaliation in violation of 18 U.S.C. § 1513(b)(1). He presents two arguments on appeal.

First, Ahmmed argues that the district court erred when it refused to group his three counts of conviction for sentencing purposes under U.S.S.G. § 3D1.2(b). The three separate acts of witness retaliation that Ahmmed committed, separated by a period of months, were sufficiently distinct that they “cannot be considered to represent essentially one composite harm.” U.S.S.G. § 3D1.2 cmt. n.4; *cf. United States v. Sneezzer*, 983 F.2d 920, 924–25 (9th Cir. 1992) (per curiam). We affirm the district court’s decision to not group the three counts of conviction under § 3D1.2.

Second, Ahmmed argues that the district court erred when it imposed an eight-level sentencing enhancement for obstruction of justice under U.S.S.G. § 2J1.2(b)(1) because his motive in committing the witness retaliation was purely retaliatory and not forward-looking. After oral argument in this case, the court decided *United States v. Calvert*, \_\_\_ F.3d \_\_\_, No. 06-30643 (9th Cir. Jan. 14, 2008), which squarely foreclosed Ahmmed’s argument. It was not error for the district court to impose the eight level enhancement under § 2J1.2(b)(1). *Calvert*, \_\_\_ F.3d at \_\_\_, slip op. at 393.

The judgment of the district court is AFFIRMED.